IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

WP(C).No. 9233 of 2006(Y)

CRIME NO.24 OF 2005 OF EXCISE RANGE, THIRUVANANTHAPURAM

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PETITIONER:

D.RADHAKRISHNAN, S/O.DIVAKARAN,
MANNANCODE MEKKINKARA PUTHENVEED, NARANI DESOM,
KUNNATHKAL VILLAGE, NEYYATTINKARA,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.B.PRADEEP

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. THE EXCISE INSPECTOR, EXCISE RANGE OFFICE, THIRUVANANTHAPURAM-695 010.

BY GOVERNMENT PLEADER SRI.S.U.NAZER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/03/2007, THE COURT ON 20/03/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:TRUE COPY OF THE LICENCE ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P2: TRUE COPY OF THE CRIME AND OCCURRENCE REPORT BEARING NO.24/05 DATED 16.3.06 ALONG WITH CERTIFICATE OF CHEMICAL ANALYSIS.

EXT.P3:TRUE COPY OF THE ADDITIONAL REPORT DATED 22.3.06 FILED BY THE 2ND RESPONDENT IN EXT.P2:

/TRUE COPY/

P.A TO JUDGE

R.BASANT, J

W.P(C).No.9233 of 2006

Dated this the 20th day of March, 2007

JUDGMENT

The learned counsel for the petitioner prays, the learned Government Pleader does not oppose the said prayer and I am satisfied that in the light of the decision in **State of Kerala and Others v. Unni and another** [2007(1) KLJ (S.C) 97], this prosecution in which the only allegation is that the percentage of Ethyl Alcohol exceeds the permissible figure cannot be sustained. This Writ Petition is, in these circumstances, allowed. All proceedings in pursuance of Crime No.24 of 2005 of Excise Range, Thiruvananthapuram against the petitioner are hereby quashed.

(R.BASANT, JUDGE)

rtr/-